

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST GODFREY LOGAN, Jr.,

Plaintiff,

v.

DPSS PUBLIC SOCIAL SERVICES, et
al.,

Defendants.

No. 2:24-cv-2743-TLN-SCR

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding pro se, and this matter was referred to the undersigned pursuant to Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). Plaintiff filed this action on October 4, 2024. For the reasons set forth in the Court's prior Order to Show Cause (OSC) (ECF No. 8), it appears Plaintiff filed in the wrong venue. Further, it has now been more than nine months since the filing of the complaint, and there is no return/proof of service on file. The Court raised these issues with service and venue in the OSC. ECF No. 8. The OSC was entered on July 14, 2025, and directed Plaintiff to show cause, in writing, within 14 days "why this action should not be dismissed/transferred based on improper venue or dismissed based on failure to effect service." ECF No. 8 at 2. The Order warned that failure to respond would result in a recommendation of dismissal. *Id.* Plaintiff did not respond to the OSC.

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1 The Court now recommends that dismissal is appropriate for three reasons. First, the
2 action may be dismissed for improper venue. 28 U.S.C. § 1406(a); *Costlow v. Weeks*, 790 F.2d
3 1486, 1488 (9th Cir. 1986). Second, dismissal is appropriate under Federal Rule of Civil
4 Procedure 4(m) for failure to timely effect service. And third, dismissal is appropriate for failure
5 to comply with the Court's OSC pursuant to Federal Rule of Civil Procedure 41 and Local Rule
6 110.

7 Therefore, **IT IS HEREBY RECOMMENDED** that this action be dismissed, without
8 prejudice, and the case closed.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). **Within fourteen (14)**
11 **days** after being served with these findings and recommendations, either party may file written
12 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
13 Findings and Recommendations." Local Rule 304(d). The parties are advised that failure to file
14 objections within the specified time may waive the right to appeal the District Court's order.
15 *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

16 DATED: August 11, 2024

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19 SEAN C. RIORDAN
20 UNITED STATES MAGISTRATE JUDGE
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